

REMARKS

Claims 1-10 and 18 are now in the case. An Abstract has been provided, headings have been provided, a change in title has been made, and references to Figure 6 have been deleted from page 12 of the specification. Claim 1 has been clarified by using the term "through cut" consistently in the claims, by deleting the alternative language "or similar packages," by adoption of the words "transverse" and "transversely" for "transversal" and "transversally," and by stating that the "through cut" is on the packaging film.

The Examiner questions other language in claim 1, i.e., the expression "attaching said strip transversally to the machine direction." Attaching strip (5) transversely to the machine direction is clearly supported on page 12, second paragraph, of the specification. As stated, "these detaching strips (5) are placed along the width of the siliconed carrier (10) that supports them." This means that they will be deposited transversely with respect to the machine direction and perpendicularly to the readable printing on the packaging film (1). The Examiner himself employs this expression to raise an observation regarding the Forman patent. Thus, it is submitted that such expression would not be vague nor indefinite as it would clearly establish a reference about the way such strip is fixed on the film. The remark made by the Examiner regarding Figure 2, i.e., that the detachable strip would be fixed on the package film in the machine direction, does not appear correct. The spool (8) in Figure 2 that contains the detachable strips (5) to be fixed on the packaging film unrolls in the machine direction, but the strips themselves are fixed on the packaging film transverse to such machine direction.

Claims 1, 3, and 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the U.S. patent to Forman No. 3,456,780. This rejection is respectfully traversed. Forman fails to show the steps of producing a through cut on the packaging film and attaching the flexible strip transversely to the machine direction.

As to the step of producing a through cut on the packaging film, this step does not appear to be disclosed or suggested by Forman at all. As to the second step of attaching the flexible strip transversely to the machine direction, the Examiner admits that Forman fails to disclose this step. Instead of allowing this claim, he relies on the notion of “design choice” to reject these claims without any citation of art in support of his position. The Examiner then argues that this step of transverse placement has not been disclosed to solve any stated problem or for any particular purpose. Applicant respectfully disagrees with the belief of the Examiner.

Attaching the strip transversely to the machine direction does indeed solve previously unresolved problems, as described in pages 5 to 8 of the specification. Therefore, if the Examiner’s position is understood, it would not be obvious for a person skilled in the art to modify Forman because reliance on “design choice” is unavailable where problems are solved. The packages manufactured according to the process disclosed in Forman would expose their contents to deterioration after being manually opened because of the difficulty in reclosing the package. The process of the present invention overcomes such specific problems by allowing a non-traumatic opening of the packages and a further closing thereof that permits the products therein to be kept fresh. Accordingly, neither the novelty nor the unobviousness of the main claim is adversely affected by Forman.

Claims 3 and 8-10 are unobvious over Forman not only for the reasons set forth above distinguishing parent claim 1 but also for any recitation of novel or unobvious features. For example, Forman does not teach or suggest accomplishing the through cut by at least one incision parallel to the detachable strip.

Claims 2 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Forman in view of the U.S. patent to Simeone No. 3,345,918. This rejection is also respectfully traversed. Simeone does not overcome the problems of Forman discussed above. Furthermore, the strip in Simeone is adhesively fixed along a line and is adhesively applied to the inner wrapper layer longitudinally to the machine direction (see Figures 1 to 3, 7, and 8 and column 3, lines 43 to 46). The tear strip is freely accessible and protrudes from one end of the wrapper (see column 2, lines 9 to 22). Therefore, once such tear strip is torn, the product appears to remain completely exposed, contrary to the Examiner's claim that Simeone suggests an upper flap that folds over itself and the tear area.

Claims 4-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Forman in view of the U.S. patent to Kalajian No. 3,687,352. This rejection is also respectfully traversed. The Kalajian patent has been reviewed, but it does not appear to correct the deficiencies of the Forman patent which were discussed hereinabove.

Additionally, new dependent claim 18 has been added, and it further distinguishes over the combination of Forman and Kalajian. Kalajian does not teach or suggest that the easy open/close element can be grasped from the package film so that the upper flap which is generated after the tear area is created can be folded over on

itself and attached to one of the faces of the package by means of said easy open/close element due to its reclosable feature.

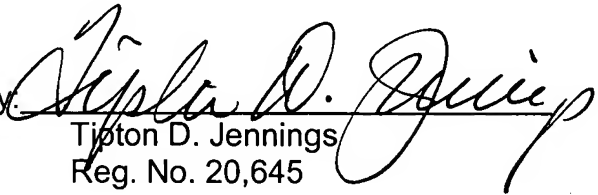
Reconsideration and allowance of claims 1 to 10 and 18 are earnestly solicited.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Attachments: Abstract of the Invention (1 page)